

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the Subscriber)
Carrier Selection Provisions of the)
Telecommunications Act of 1996)
)
Policies and Rules Concerning)
Unauthorized Changes of)
Consumers' Long Distance Carriers)

CC Docket No. 94-129

REPLY COMMENTS OF
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

On July 15, 1997, the Federal Communications Commission (Commission) released a Further Notice of Proposed Rulemaking (Further Notice) and Memorandum and Order on Reconsideration concerning unauthorized changes in subscriber carrier selections, generally referred to as "slamming." The Further Notice seeks comments on proposed modifications to the Commission's rules to implement Section 258 of the Telecommunications Act of 1996 (Act),¹ which, among other things, prohibits any telecommunications carrier from submitting or executing a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe.

In a filing dated September 15, 1997, The Southern New England Telephone Company (SNET) submitted Comments on two specific issues covered by the Further Notice. First, SNET urged the Commission to adopt rules governing Preferred Carrier

¹ 47 U.S.C. § 258, Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

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(PC) freeze service. Second, SNET recommended that the Commission refrain from establishing verification procedures for presubscribed interexchange carrier (IXC) change requests from consumer-initiated, in-bound calls to an IXC until a demonstrated need for such procedures exists. SNET respectfully submits its reply to the comments of others on these two issues as well as on MCI's proposal that independent third party verification be required for all services.

I. INTRODUCTION

As reflected in numerous Comments,² including those submitted by SNET, unauthorized PC changes plague consumers throughout the country. The incidences of such unauthorized changes have been skyrocketing despite a series of Commission initiatives designed to curb such activity. It is imperative, therefore, that a customer have the option of implementing a PC freeze, i.e. a service offered by local exchange carriers (LECs) which allows a customer to place a freeze on his or her line so that PC changes cannot be processed without specific authorization directly from the customer.³

SNET began offering its PC freeze option, known as Carrier Choice Protection, to its customers in 1990 in response to customer demand for a means to protect against unauthorized change of their interstate long distance carrier.⁴ With the significant increase in slamming complaints over the past several years, customers' demand for SNET's Carrier Choice Protection offering has likewise increased. It is important to note

² America's Carriers Telecommunication Association; Ameritech Operating Companies (Ameritech); GTE Service Corporation (GTE); National Association of Attorneys General, Consumer Protection Committee, Telecommunications Subcommittee; New York State Consumer Protection Board (NYSCPB); Pennsylvania Office of Consumer Advocate (PaOCA); Sprint Corporation (Sprint); Tennessee Regulatory Authority (the TRA); and US West.

³ See Comments of: Ameritech; Cincinnati Bell Telephone (CBT); GTE; NYSCPB; New York State Department of Public Service (NYDPS); PaOCA; and the TRA.

⁴ In 1990, the intrastate market in Connecticut was not yet open to competition.

that Carrier Choice Protection is an optional service, and is available to customers of any IXC, not just to customers of SNET.

II. PC FREEZES ARE NOT INHERENTLY ANTICOMPETITIVE.

Numerous Comments assert that PC freezes limit competition.⁵ However, a review of the function of the PC freeze and the experience in Connecticut where such freeze option is offered does not support such assertion. As argued by Ameritech Operating Companies (Ameritech) in its Comments, while PC freezes do prevent **carriers** from requesting PC changes on behalf of consumers, that in and of itself does not mean that PC freeze protection has the effect of limiting competition.⁶ Customers can still effect a PC change simply by providing the LEC with express authorization to implement the change. This can be done by either calling the LEC or providing the LEC with written verification of the change. Once a LEC has received a customer's authorization, the LEC then changes the customer's PC. As intended, PC freezes do not prevent customers from changing their carrier, but simply prevent carriers from slamming customers in violation of the Commission's rules.

In Connecticut, SNET offered PC freeze protection prior to instate equal access. The state is now 100% converted to equal access and competition in the instate toll market has so progressed that the Connecticut Department of Public Utility Control has found the instate toll product to be fully competitive under Connecticut law.⁷

⁵ AT&T; Billing Information Concepts Corp. (BCI); Competitive Telecommunications Association (CompTel); Excel Communications, Inc. (Excel); Intermedia Communications Inc.; IXC Long Distance, Inc.; LCI International Telecom Corporation; MCI; Sprint; Telecommunications Resellers Association; and US West.

⁶ Comments of Ameritech, pp. 20-24.

⁷ See decision dated November 27, 1996 in Docket No. 96-06-23, Application of SNET for Approval to Reclassify Message Toll Service from the Non-Competitive Category to Competitive; see also Section 16-247f of The General Statutes of Connecticut.

Specifically, there are over 200 intrastate carriers certified to provide service in Connecticut, with over 50 other carriers awaiting intrastate certification. The experience in the Connecticut telecommunications market, therefore, demonstrates that PC freezes do not impede competition.⁸ To the contrary, competition in Connecticut has flourished.

III. SPECIFIC ALLEGATIONS OF SNET USE OF PC FREEZES TO RETAIN MONOPOLY POWER OR OTHERWISE THWART COMPETITION ARE UNSUPPORTED.

In its Comments, MCI asserts that LECs' practices involving PC freezes demonstrate the potential dangers posed by an incumbent LEC's (ILEC's) misuse of its monopoly power.⁹ Specifically, MCI claims that SNET began using the PC freeze when it was faced with more effective competition in the instate toll market.¹⁰ This assertion is simply untrue. As explained above, SNET began offering the Carrier Choice Protection service in 1990, at least five years before the intrastate market in Connecticut was fully converted to equal access. It did so in response to customers' demands for protection against unauthorized change of their interstate carrier. The number of customers choosing the Carrier Choice Protection offering has recently grown in response to the significant increase in slamming complaints over the past several years.

MCI further specifically asserts that LECs misuse PC freezes by shielding their own customer base from competition and by refusing to implement carrier changes to which a customer has already provided valid consent.¹¹ Again such accusations are

⁸ As noted above, SNET's PC freeze offering is available to the customers of any IXC, not only to customers of SNET. SNET will apply a PC freeze to the account of any customer who requests such option.

⁹ Comments of MCI, pp. 12-16.

¹⁰ *Id.*, pp. 12-13.

¹¹ *Id.*, pp. 13-16.

unsupported. As described above, SNET's Carrier Choice Protection offering is available to customers of all IXCs and, in order to effect a PC change, a customer simply calls SNET or provides written authorization of the requested PC change. SNET has never refused to implement a PC change once it has received express authorization from the customer to do so. MCI has not presented, and indeed cannot present, any evidence that SNET abuses the PC freeze in such a manner.

Additionally, MCI asserts that customers are often not adequately informed by the LEC of the significance of a PC freeze.¹² Contrary to such assertion, SNET provides customers with information regarding the implications of a PC freeze as well as the procedures necessary to remove a freeze. Specifically, SNET's direct mail solicitation informs customers as to what a PC freeze entails and clearly states that, once the customer implements a freeze on his or her account, the customer's long distance lines will not be switched **unless the customer gives his or her express written or verbal consent**. Clearly, customers feel that the protection they receive from the PC freeze is worth the extra step that might be required should they decide to change their PC in the future. In contrast to the time and effort needed for the customer to correct an unauthorized carrier change, contacting the LEC to authorize a PC change is not an undue burden. PC freezes give customers control of their carrier choice, rather than such control being left with a LEC or other carrier.

¹² Id.

IV. UNDER SECTION 258 OF THE TELECOMMUNICATIONS ACT OF 1996, THE COMMISSION HAS THE AUTHORITY TO DEVELOP RULES AND REGULATIONS FOR PC FREEZES.

As discussed above and explained in detail in SNET's Comments, the PC freeze option offers the kind of protection against slamming contemplated by Congress with passage of Section 258 of the 1996 Telecommunications Act. Other Comments provide support for SNET's view.¹³ Moreover, a PC freeze is a blocking option, just as are 900 and international call blocking, which have previously been mandated by the Commission.¹⁴ Therefore, as more fully detailed in SNET's Comments, jurisdiction for PC freezes rests with the Commission. SNET urges the Commission to adopt rules and regulations governing PC freezes as part of its overall consideration of slamming issues.

V. CERTAIN RULES PROPOSED BY THE IXC'S ARE UNNECESSARY.

Over the past several months IXCs have presented a myriad of proposals regarding the appropriate rules and regulations that should be applied to PC freezes and other forms of PC protection. Such proposals have been presented in the Comments filed in response to the Further Notice as well as in Comments and Reply Comments concerning the Petition for Rulemaking filed by MCI Telecommunications Corporation on March 18, 1997,¹⁵ requesting the Commission to institute a rulemaking to regulate PC

¹³ See Comments of: Ameritech, pp. 20-24 (the Commission should continue to view slamming protection as an important component of any anti-slamming strategy); CBT, pp. 8-9 (PC freezes should continue as a necessary protection procedure for customers); GTE, pp. 11-13 (customers should be well-informed and empowered to protect themselves by taking appropriate action to freeze their PC choice); NYDPS, pp. 8-9 (to ban PC freezes for the minimal delay they may cause under the guise of preserving choice of providers would be to eliminate consumers' only slamming prevention mechanism at this time).

¹⁴ Report and Order, Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, FCC 93-349, CC Docket No. 93-22, released August 13, 1993, p. 26, para. 60; Third Report and Order, Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, FCC 96-131, CC Docket No. 91-35, released April 5, 1996, p. 8, para. 8.

¹⁵ Petition for Rulemaking filed by MCI Telecommunications Corporation March 18, 1997, File No. CCB \ CPD 97-19, RM-9085.

freeze solicitation by LECs. SNET filed Comments and Reply Comments regarding MCI's Petition, and, therefore, has previously addressed many of the IXCs' proposals. SNET again responds to various proposals as presented in the Comments on the Further Notice in an effort to encourage the development of fair and reasonable rules on PC freezes and the protection of customers' privacy.

AT&T asserts that in the absence of data identifying which local subscribers have elected a carrier selection freeze (and the level of service to which it applies), carriers will be unable effectively to use Commission-imposed verification procedures to market their services to customers who may have carrier freezes in place.¹⁶ AT&T, therefore, urges the Commission to require LECs to furnish such data to other carriers to facilitate the accurate and timely implementation of customers' carrier selection changes.¹⁷ AT&T, however, ignores the fact that providing such data would violate the privacy rights of customers and the Act's requirements regarding Customer Proprietary Network Information (CPNI).¹⁸ Moreover, implementation of such proposal would permit abuse of customer information for marketing or other purposes, in violation of the Commission's rules.

In Comments on the Further Notice, MCI supports a proposal presented by AT&T in Comments on the MCI Petition. Specifically, MCI calls for a prohibition against solicitation and implementation of local carrier selection freezes by dominant local carriers.¹⁹ As SNET argued in its Reply Comments on MCI's Petition, there is no

¹⁶ Comments of AT&T, pp. 18-20.

¹⁷ Id., see also CompTel, p. 9.

¹⁸ See 47 U.S.C. § 222.

¹⁹ Comments of MCI, pp. 15-16.

relationship between the regulatory status of a LEC and the demand of its customers for protection against slamming. SNET offers PC freezes as an optional service to respond to customers' expressed demand for protection of their carrier choices.

AT&T suggests that carriers should be permitted to submit directly to a LEC a change order from a customer who has a PC freeze on his or her line.²⁰ This procedure should not be allowed, even with third party verification, unless the order clearly reflects the written consent of the customer to change the PC. Authorizing carriers to submit customers' change orders directly to LECs without such consent, as suggested by AT&T, would effectively eliminate the very protection PC freezes afford customers.

A number of carriers argue that the Commission should adopt rules prohibiting the use of false and deceptive statements to customers to secure PC freezes.²¹ Excel Communications, Inc. further states that ILECs should not be permitted to dissuade new carrier selections under the guise of seeking to verify a carrier selection or otherwise use information from submitting carriers to engage in marketing campaigns with the consumer.²² Such rules are unnecessary in that all carriers are already subject to Section 201 of the Communications Act which prohibits unreasonable practices. Thus, the Commission already has the ability to address and penalize any deceptive or misleading conduct on the part of any carrier.

Finally, MCI suggests that, as a long term solution, the Commission should assign responsibility for administering the PC freeze process to a neutral third party.²³ This

²⁰ Comments of AT&T, p. 19; see also Comments of Brittan Communications International Corp., p. 10.

²¹ Comments of: CompTel, p. 9; Time Warner Communications Holdings, Inc., pp. 10-11; MCI, p. 11; WorldCom, Inc., p. 10.

²² Comments of Excel Communications, Inc., pp. 4-5.

²³ Comments of MCI, pp. 25-26.

proposal is unnecessary and would prove to be administratively burdensome. If the Commission adopts and enforces rules and regulations governing PC freezes, both consumers and competing carriers will be protected.

VI. NO FACTUAL RECORD EXISTS TO INDICATE THAT PC VERIFICATION RULES SHOULD APPLY TO IN-BOUND CALLS.

In its Comments on the Further Notice, SNET suggested that imposition of verification procedures on customer-initiated, in-bound calls was not supported by the record. SNET thus recommended that the Commission conduct further research as to whether there is actual abuse of the customer-initiated, in-bound verification practice and, if so, the extent of that abuse. Other Comments support such suggestion, questioning the imposition of costly verification procedures based on a record devoid of evidence that a problem actually exists.²⁴

Under no circumstances, however, should PC change verification procedures be made applicable only on customer-initiated, inbound calls to ILECs, as suggested by Competitive Telecommunications Association (CompTel) in its Comments.²⁵

VII. MCI's CALL FOR THIRD PARTY VERIFICATION FOR ALL SERVICES IS UNNECESSARY AND COSTLY.

MCI asserts that the use of independent third party verification is the most effective method for protecting consumers.²⁶ While acknowledging the cost associated with third party verification, MCI states "this is not a serious concern with respect to the RBOCs and other large LECs that will have the benefits of economies of scale and scope

²⁴ Comments of AT&T, pp. 21-28; BellSouth Corp., BellSouth Telecommunications Inc., pp. 11-12; CBT, p. 7; Sprint, p. 30; and United States Telephone Association, pp. 4-5.

²⁵ Comments of CompTel, p. 10.

²⁶ Comments of MCI, p. 11.

at least as strong as MCI.”²⁷ Third party verification can be an effective tool in protecting consumers against slamming. The Commission, however, should not impose rules, as proposed by MCI, that are detrimental to smaller carriers that lack the economies of scale and scope enjoyed by the larger carriers. If the Commission wishes to mandate third party verification, it might consider limiting the requirement to carriers with the economies of scale and scope to support such requirement.

VIII. CONCLUSION

As described above and in SNET’s Comments, the increasing volume of customer complaints regarding slamming, along with the consumers’ demand for protection against unauthorized carrier changes, clearly indicates a need for the PC freeze option. PC freezes, offered on a non-discriminatory basis, will provide the public the protection it desires, without impeding competition. The Commission has the authority under Section 258 of the 1996 Telecommunications Act to initiate rules for PC freezes as part of its overall consideration of slamming issues.

The current record does not support imposition of costly verification procedures on customer-initiated, in-bound customer calls.

²⁷ Id., p. 9, note 11.

Finally, MCI's support of the use of independent third party verification for all services ignores the associated cost and consequent impact on carriers who do not enjoy the economies of scale and scope of the larger carriers.

Respectfully submitted,

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